

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Phyllis Tate, )  
Plaintiff, ) C/A No. 3:16-2715-MBS  
vs. )  
State; Department of Public Safety; )  
Officer Colbert; Lakisha Martin; )  
Richland County Sheriff Department; )  
and Myers Beryl Lyennett, )  
Defendants. )  
\_\_\_\_\_  
)

**O R D E R**

Plaintiff Phyllis Tate filed a complaint on August 3, 2016, alleging that Defendants violated her constitutional rights. See 42.U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling.

On August 10, 2010, the Magistrate Judge issued an order directing Plaintiff to bring her complaint into proper form by (1) completing one summons form that lists every defendant; and (2) completing a Form USM-285 for each Defendant. Plaintiff was cautioned that her failure to bring the case into proper form could result in the case being dismissed for failure to prosecute. See Fed. R. Civ. P. 41(b). Plaintiff filed no response to the Magistrate Judge's order. On September 7, 2016, the Magistrate Judge issued a second proper form order. After Plaintiff did not respond, the Magistrate Judge issued a Report and Recommendation on October 4, 2016, in which she recommended that the case be dismissed without prejudice for failure to prosecute. Plaintiff filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff’s complaint is dismissed, *without prejudice*, pursuant to Rule 41(b) for failure to prosecute.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina

November 8, 2016

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified of the right to appeal this order  
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**